

House Energy and Commerce Committee
Subcommittee on Oversight and Investigations Hearing:
“Thoroughbred Horse Racing Jockeys and Workers: Examining On-Track
Injury Insurance and Other Health and Welfare Issues”
October 18, 2005

Testimony Submitted by Mr. Jerry Bailey

Distinguished members of Congress, ladies and gentlemen, thank you for allowing me to address you today.

As you know my name is Jerry Bailey, I am a professional jockey in the Thoroughbred Racing Industry, and have been for the past 31 years. Although I am a member of Racing's Hall of Fame, won numerous major races, and received many prestigious awards, one of the most gratifying aspects of my career has been the times in which I was able to be the voice of reason and a representative on behalf of the jockey's across America. As I said previously, I have been a Rider, not a Writer, so please bear with me.

In the next few minutes I would like to give you a brief overview of the situation that most jockeys in America find themselves in today as I see it... how we got here, some of the bumps in the road along the way and where we might be headed if the situation remains status quo.

The Jockeys Guild has traditionally been a social welfare organization. Their primary purpose over the years has been to provide jockeys in America with both health and on-track accident insurance, better and safer working conditions, as well as securing a fair and equitable pay scale. I was an active member of the Guild from 1974 until 2003 at which time I resigned due to my extreme distrust of the new management team headed by Dr. Wayne Gertmenian.

During the term of my membership, I served as a Regional Representative, followed by terms as Vice President of the Eastern Section, and ultimately President of the Guild for 7 years. The Guild was funded in most part by two mechanisms. One, being contributions by the jockeys themselves, jockeys would pay to the Guild (in their name) a per mount fee. As years went by, the fee went from \$2 to \$8. The majority of each per mount fee went to pay for the riders health insurance premium, and the balance of the per mount fee paid for the expenditures of running the Guild, (the split was 6/2 on an 8 dollar fee.) The more mounts ridden in a calendar year, the more each rider would contribute to his, or her account. Once a jockey's insurance premium was satisfied, the surplus was applied to less fortunate guild members' premiums. In other words, the more fortunate would help the less fortunate.

The second means of funding the Guild, was the annual monies received from most of the Racetracks in exchange for the radio and television rights of the jockeys. Those rights are assigned to the Guild by each member when said member joins the Guild. Because of the rising costs of health care over the years, and the fact that Racetracks were unwilling to substantially increase their annual payments to the Guild, it was inevitable that the Guild was eventually going to be unable to afford the costs of both the healthcare and on-track accident insurance for it's membership.

The membership was told of the financial concerns at each annual meeting in the late nineties. The Guild financial advisors warned that even though the Guild's investments, (which helped bridge the shortfall for several years), would fail to be the solution in the event the stock market took a downward turn of any great significance. Of course that did indeed occur in late 2000 and early 2001.

As this economic downturn occurred, the Guild notified the membership that since it could not afford to maintain it's health insurance plan, members would be placed in a Cobra plan which could satisfy the insurance needs of the riders for 18 months. During that time, each rider could obtain his own health insurance. The Guild did however maintain the "ON-TRACK" accident insurance. That insurance provided jockeys in states that did not have workman's compensation, coverage from \$100,000 to \$1,000,000 (by way of negotiation, the tracks provided the first \$100,000 of insurance). In short, the Guild could not afford to provide BOTH the health AND on-track accident insurance, so it chose the latter.

As the news of the termination of the health insurance spread through the jockey colony, rumors of fraud, and mismanagement of Guild funds by management were common. Untrue, but common. Those rumors were followed by allegations by some that were seeking a change in management. It is my understanding that to this day, no evidence of any wrongdoing was ever found.

In early April of 2001, there was a meeting at the Guild offices in Lexington, Kentucky. The purpose of that meeting was for the management team of the Guild, headed by the National Managing Secretary John Giovanni to answer any questions that members might have concerning the allegations of mismanagement of funds or fraud. In attendance were myself, Pat Day, (president of the guild at that time), John Giovanni, Robert Colton, Mike McCarthy, Tomey Swan, Tony Black, (via phone), and Chris McCarron.

At the conclusion of that meeting, it seemed to me as though all questions brought forth by McCarron, Colton, and McCarthy were answered to their satisfaction. Apparently that was not the case, because some time after that meeting, Mr. McCarron was in the process of introducing a Dr. Wayne Gertmenian to many Guild members across the country.

In June of 2001 there was a special meeting (via conference call) requested of the Guild executive board (of which I was a member). The purpose of that meeting was to discuss the removal of John Giovanni from the position of National Managing Secretary. After several hours of discussion, there was a consensus that although there was some action necessary, there

was no vote taken. It is my understanding that an immediate lock down of the Guild office took place either late that night or early the next morning. I was unaware of the lock down at that time. In reflection, I can only believe that Mr. McCarron, Mr. Colton, Mr. McCarthy, and Dr. Gertmenian were in concert on this take-over. I do recall that of all the executive board members on the aforementioned conference call, Pat Day, Tony Black, Dean Kutz, Larry Melancon and I were opposed to Mr. Giovanni's removal.

At some point during that conference call, the topic of who would replace Giovanni was discussed. The name of Dr. Gertmenian was introduced into the conversation. This "Dr. G" was described as a close personal friend of Mr. McCarron, a professor at Pepperdine University, and a wizard at negotiations, as he had worked for the Nixon administration in that capacity. During the ensuing weeks, I contacted Dr. G by way of a phone number Mr. McCarron had given me. The purpose of my call was to conduct an informal interview of Dr. G so that I might be more well versed as to his qualifications, or lack thereof, for the job of National Managing Secretary of the Guild. (I felt an obligation to the membership to either endorse this man or not). I asked Dr. G to provide me with a few references of previous employment, to which he answered repeatedly that those references were confidential, and that under no circumstances would he comply. At that moment, I began to distrust this "Dr. G".

Sometime thereafter I resigned from the executive board, as I felt that I could not serve with someone I did not trust. It was then that I knew I would eventually extract myself from an organization that I had lived and breathed for over 25 years. My objective then was to find health insurance for my family and me. A mission that took over a year (it was, and is still very hard to obtain as a jockey).

In June of 2002, I had the occasion to learn that a jockey in Louisiana had been injured on track, and was incurring bills of over \$100,000. I found that hard to believe. I was sure that the Guild had maintained its insurance policy for track accidents in states that did not have workmens' comp. It just so happened that Dr. G was at Belmont Park (where I was riding) that week, so I asked him if our on track insurance policy was still in effect. He told me it was. Being distrustful of the man already, I asked him the same question the next day, in a manner suggesting that I knew differently. His answer this time was, that he checked it out and found that the policy in question was cancelled by John Giovanni. He added that the Guild was looking into restoring it. It is a matter of record that John Giovanni purchased said policy on or about April 1st of 2001 (shortly before his ousting). Under Dr. G's watch, the policy was allowed to lapse one year later.

When Dr. G took control of the Guild, he made a promise to restore health insurance to the jockeys. He did that all right, but he never notified me, (still an active Guild member), that this new policy failed to cover jockeys for on-track accidents (as the previous policy had). Nor did he notify me that the on-track accident policy that was purchased by John Giovanni in April of 2001, and was in effect for one year had lapsed. It is my understanding that there was never any formal notification of the lapse of that policy.

At that point I found it critical to obtain my own health insurance policy, that would also cover me for on track accidents. As soon as I obtained said insurance, I resigned from the

Guild. At that point I became very distant from any Guild business. To this very day, I truly hope that all the promises made to the jockeys from Dr. G, come to fruition. Unfortunately, over the past few years that doesn't seem to have happened.

It is my humble opinion that jockeys have been treated like second hand citizens by this industry on many occasions. I also feel that we definitely do own our media rights, and should be fairly compensated for them when used for a profit by others. I also believe that while we should be responsible for our own health insurance, we should not have to pay for insurance coverage while "on the job."

I mentioned in my opening paragraph, the direction this industry might be headed if things remain status quo. In the area of ON TRACK insurance, some type of national program or policy needs to be explored. A National Workman's Compensation plan would be a Godsend. I have broken 21 bones in my career and I consider myself to be very fortunate. Fortunate in the sense that I was injured in states that had Workmen's Comp in place or at tracks that maintained an ON TRACK insurance policy that went well beyond the \$100,000 level. If 95% of the Jockeys in America were to sustain a catastrophic injury tomorrow, at a track that only insured them for \$100,000, they would be wiped out financially. It is my hope that here today, with the help of Congress, we will begin the journey to find a solution to the insurance needs of all Jockeys across America.

I sincerely thank you for taking the time out of your busy schedules, to address the concerns of Jockeys in the Thoroughbred Industry. Even though I am in the twilight of my career, the issues we are addressing today are very important to me, and will have a huge impact on an industry that contributes billions of dollars and countless jobs to the economy of our Country. Thank you!